

Amendment Under 37 C.F.R. § 1.111
Serial No.: 10/799,888
SUGHRUE MION, PLLC Ref: Q79842

REMARKS

Claims 1-5, 7 and 9-17 are all the claims pending in the application.

The Examiner has rejected claims 1-5, 7, 9, 10, 14 and 17 under § 112 (second paragraph) as being indefinite. First, the Examiner contends that there is no antecedent basis for the limitation “the bottle or container” in line 3 of claim 1. By way of this Amendment, Applicant has amended claim 1 to address this problem. Specifically, claim 1 has been amended to limit the invention to a capping head device for application of a cap to a container, recognizing that a container can include a bottle. It is believed that antecedent basis is provided throughout the claims. Thus, this rejection is believed to be overcome.

With respect to claim 9, the Examiner asserts that the limitation “to provide a seal between the casing and the container” is “vague and indefinite as it is not clear how applicant will be able to provide a seal between the machine casing and the container”. Applicant does not understand this rejection. More specifically, claim 9 merely recites that the capping device further includes a seal ring provided on the end mouth of the casing to provide a seal between the casing and the container. The seal ring is identified by reference numeral 43, shown in Figure 3 of the drawings of the subject application. As discussed in the specification, the seal ring is provided at the bottom of end mouth 32 of the casing 31, such that it contacts the surface of the bottle to create a seal. *See*, page 9, line 31 to page 10, line 5. Thus, according to the invention, the seal ring is provided on the end mouth of the casing and provides a seal between the casings and the container. Accordingly, this rejection is respectfully traversed.

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Claims 1-5, 7 and 9-17 have been rejected under § 103(a) as being unpatentable over Vander, et al. (U.S. Patent No. 5,419,094) in view of Stahlecker (U.S. Patent No. 6,230,472). The Examiner contends that Vander et al. discloses all of the features recited in claim 1 with the exception of the requirement of the means for connecting the closed chamber with a vacuum source and relies on Stahlecker for disclosing this feature. However, Applicant respectfully disagrees with the Examiner and, therefore, respectfully traverses this rejection.

In more detail, the Examiner contends that Vander et al. discloses a capping machine 10 having an end mouth designed to fit on the container so as to define a closed chamber. In support, the Examiner cites to Figures 1 and 2 and specifically to the “capping machine 10 and casing 28 and 34 defining a chamber”. *See*, the sentence bridging pages 2 and 3 of the Office Action. However, Applicant submits that Vander et al. does not teach or suggest such a casing which is designed to fit onto a container to define a closed chamber.

For example, although the Examiner contends that reference numeral 28 of Vander Bush, et al. corresponds to “a casing”, reference numeral 28 actually corresponds to a turret. Furthermore, whereas the Examiner contends that reference numeral 34 corresponds to “a casing”, reference numeral 34 actually corresponds to a sleeve disposed below the turret. Thus, it is clear that neither of these elements corresponds to a casing having an end mouth designed to fit on the container so as to define a closed chamber, as claim 1 requires. In fact, the turret 28 merely allows the capping machine 10 to rotate so that the capping heads 48, provided around

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the periphery of the turret, can apply the caps 12 to the bottles 14 as the bottles are rotated upon table 20, as shown in Figures 1 and 2.

In short, the turret 28 and sleeve 34 do not even contact the bottles and, therefore, could not possibly define a closed chamber with the bottles, as claim 1 requires.

At most, Vander, et al. discloses capping heads 48 for applying caps to bottles. However, it does not disclose the important feature of a casing having an end mouth which is designed to fit on the bottle so as to define a closed chamber to which a vacuum is applied, as the claims require. It is simply not relevant to the claimed invention.

In view of the foregoing, even if one were to modify Vander, et al. in the manner proposed by the Examiner, one would not arrive at the claimed invention. Furthermore, since Vander, et al. does not disclose forming a closed chamber, it certainly would not have been obvious to one of ordinary skill in the art to apply a vacuum, as the Examiner asserts. Thus, the Examiner's obviousness determination is likewise improper.

The above arguments apply both to independent claim 1 as well as independent claim 11. Accordingly, it is respectfully submitted that all claims pending in the application are allowable. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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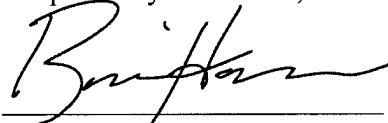
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Date: October 18, 2006